

Remarks

Preliminary Matters

No claims have been added. No fee is due. If the Office disagrees, Applicants ask that Deposit Account No. 07-1077 be charged for the amount.

Objection to Drawings and §112, First Paragraph Rejections of Claims 4, 6, and 8

The Office has objected to the drawings as not showing every feature of Claim 4, as amended. Consistently, the Office has rejected Claim 4 (from which Claims 6 and 8 depend) as failing to satisfy §112 First Paragraph, all for the same reason: the phrases added to Claim 4 in the April 6, 2007 response. Applicants traverse this objection and rejection. Below are Claim 4 and Fig. 6:

4. (Currently Amended) The apparatus of Claim 1,
~~wherein the insert panel has one substantially straight or flat surface and is a formwork wall panel,~~
~~wherein the male engagement portions at each end extend from a same side of the wall panel,~~
~~wherein each male engagement portion has a first projection and an integral second projection,~~
wherein the first projections at the ends extend substantially parallel to the wall panel and each other,
and
wherein the second projections at the ends extend substantially perpendicular to each other.

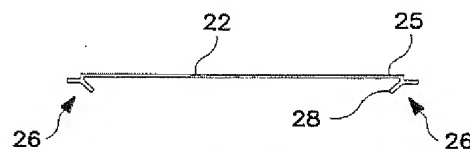


FIG. 6

The male engagement portions 26 extend at ends 25 from the same (lower) side of wall panel 22. Each male engagement portion has projections 28, a first projection and an integral second projection. The first projections (seen as horizontal in Fig. 6) extend substantially parallel to the wall panel and each other. The second projections

(seen as extending southeast on the left side and southwest on the right side in Fig. 6)
extend substantially perpendicular to each other.

In addition to the correlation of the subject matter of Claim 4 to Fig. 6,
Applicants also provide the correlation of their Specification to both Fig. 6 and the
subject matter of Claim 4 as amended in April 2007.

This text appears on Page 14 of the Specification:

An exemplary embodiment of the present invention also includes use of
a panel which is adapted to engage at least one female engagement portion of a
form element for use in forming an arrangement having a substantially flat wall.
15 Figure 6 shows a flat panel insert or wall panel 22. The wall panel 22 can be
separate or distinct from a form element. The wall panel has at least one end 25
with a male engagement portion 26. The male engagement portion 26 can be of
similar configuration and operation as the previously discussed male
engagement portions. Like the previously discussed male engagement portions,
20 the male engagement portion 26 can comprise one or more of an engagement
fin, projection, finger, or lip 28. Of course other alternative configurations and
sizes of wall panels and/or male portions can be used, such as shown in Figures
32-37. A male engagement portion is adapted to engage a matching female
engagement portion. Figure 6 shows each end of wall panel 22 having identical
25 male end engagement portions 26. The male engagement portions 26 of Figure
6 are adapted to engage two female engagement portions of adjacent form
elements.

This text appears on Pages 5 and 6 of the Specification:

Furthermore, each of the formwork components can be molded and/or
extruded. Additionally, the formwork components can use male/female
engagement relationships that permit identification of common loci of each
25 connection with the placement of each locus at the vertices of a regular
geometric form.

The exemplary wall panels have an integral substantially flat wall
surface with a male engagement portion at each end. Both male engagement
portions extend from the same side of the wall surface. Each male engagement
30 portion has a first projection and an integral second projection. The first

projections extend substantially parallel to the wall surface and each other, and
the second projections extend toward each other. The second projections can
extend substantially perpendicular.

Applicants assert that their amendments to Claim 4 as of April 6, 2007 are supported , *in haec verbis*, by their Specification at Pages 5-6 and 14 and by their Fig. 6. The three sections of the application: Specification, Drawings, and Claims interlock to meet all requirements of §112 and the regulations concerning the Drawings.

§112 Second Paragraph Rejection

The Office has also rejected Claim 4, from which Claims 6 and 8 depend, because of concerns about the amended language. In the first paragraph of the §112 Second Paragraph rejection, the Office repeats language from amended Claim 4, for which Applicants have identified above their sources from the Specification. In the second paragraph of the §112 Second Paragraph rejection, the Office poses questions.

Those questions of antecedent basis about "the first projections at the ends" and the "second projections at the ends" (phrases from the Specification) are made clear by a phrase in the paragraph initially added to Claim 4 and now moved to Claim 1. That phrase tabulates the elements of the combination to show that each end has a male engagement portion and each male engagement portion has a first and a second projection, resulting in two first projections at opposing ends of the wall panel and two second projections at opposing ends of the wall panel. With this amendment to Claim 1 where that tabulation of elements now resides, "the first projections at the ends" and "the second projections at the ends" remaining in Claim 4 both have antecedent basis. Claim 4 is clear because of the amendment of the underscored phrase above placed into Claim 1.

§102(b) Rejection of Claims 1, 4, 6, and 8 using U.S. Pat. No. 5,860,262 (Johnson)

Applicants appreciate the annotated Fig. 16 provided by the Office but disagree with the characterization of the use of the phrases "male engagement portion," "first projection," "second projection," among other phrases in context of Applicants' Specification and Fig. 6.

Applicants first traverse the position of the Office that Item 58 and Item 58' are "male engagement portions" as that phrase has been used repeatedly by Applicants and in a manner consistent with plain meaning in many industries. When comparing *any* male portion with *any* female portion at the point of engagement or contact, the male portion is the protruding portion and female portion is the receiving portion. Reviewing Fig. 16 of Johnson, it is clear that Items 58 and 58' are female portions because one only need to look at Fig. 2A to see that the male, protruding portions 34 etc. *are received into* Item 58, which is a female engagement portion, using Applicants' phraseology. Applicants' Claims 4, 6, and 8 are novel over Johnson.

Next, Applicants traverse the position of the Office that Johnson's Items 58 and 58' extend from the same side of the wall panel. Applicants have moved that claim element portion of Claim 4 into Claim 1 to make Claim 1 assuredly novel over Johnson. This is done out of an abundance of caution because it appears that the Office has not taken into consideration the recitations in Claim 1 that the result of engagement of the insert panel with female engagement portions on an octagonal form element result in a triangular area which Fig. 2A and the remainder of Johnson does not teach.

To demonstrate novelty of Claim 1, Applicants assert that Items 58 and 58' of Johnson are on opposing sides of Item 150. If it is true that Annotated Projections A and B are on "each end", then those Annotated Projections can not be on the "same side". If a wall panel has four sides, North, South, East, and West, then Items 58 and 58' are either on North and South sides, respectively, or East and West sides, respectively, but not North and North, etc.

Please see Fig. 6 of Applicants' Drawings and Pages 5-6 and 14 of Applicants' Specification above in this response. The Office has every context it needs to understand that Applicants' claimed male engagement portions at each end of the wall panel extend from a single side of the panel. From there, it can be seen that the first and second projections are nearly phallic in their masculine shape. From there, it can be seen that the first and second projections at each end are oriented in space in such a way that the first projections run parallel to the length of the wall panel and second

projections are not. From there, it can be seen that the second projections are oriented relatively to each other such that their axes would collide approximately perpendicularly.

Johnson's Item 150 has none of those details, beginning with male engagement portions extending from the same side of the wall panel. Claims 1, 4, 6, and 8 are novel over Johnson.

§102(b) Rejection of Claims 1, 4, 6, and 8 using U.S. Pat. No. 5,740,648 (Piccone)

Applicants also appreciate the annotation of Fig. 7 of Piccone but traverse this rejection for many of the same reasons as above. The language employed by Applicants in their Specification and the Fig. 6 drawn by Applicants combine to support claim language in Claims 1 and 4, from which Claims 6 and 8 depend, to demonstrate novelty over Piccone.

Reviewing Piccone's Fig. 7, Items 102 and 104 do not extend from the same side as do Applicants' male engagement portions 26. Item 102 extends from the upper side of the panel, but Item 104 extends from the end. Moreover, the use of Item 94 is for a "cornering piece" and is amply explained by Piccone at Col. 5, Lines 17-31 as being quite different from Applicants' claimed insert panel. Item 102 is called as a female portion of a T connector and faces on the same side as the central engaging means 98 and 100. Item 104 is called a male portion of a T connector and "faces away from the plane of the cornering piece." The Office can not divorce the drawing from the specification of Piccone to find anticipation of Applicants' claims.

Applicants' Claims 1, 4, 6, and 8 are novel over Piccone '648.

§102(b) Rejection of Claims 1, 4, 6, and 8 using U.S. Pat. No. 6,167,669 (Lanc)

Applicants also appreciate the annotation of Fig. 1 of Lanc but traverse this rejection for many of the same reasons as above. The language employed by Applicants in their Specification and the Fig. 6 drawn by Applicants combine to support claim

language in Claims 1 and 4, from which Claims 6 and 8 depend, to demonstrate novelty over Lanc.

Applicants' male engagement portions extending from the same side of a wall panel are different from Lanc's asymmetrical Item 10. Applicants have a male engagement portion at each end, a first projection on each male engagement portion, and an integral second projection on each engagement portion. That makes Applicants' male engagement portions 26 (same number used in Fig. 6) to be two of the same type of structure at each end of panel 22. Item 10 of Lanc does not have the same type of structure at the "12, 18 end" as compared with the "12, 14, 16 end".

Moreover, the "12, 14, 16 end" is not a male engagement portion for the same reasons that Johnson's Items 58 and 58' were. See Figs. 4, 4A, and 4B of Lanc where Item 20 slides into the receiving area of Item 16.

Moreover, no two "projections" of the "12, 18 end" and the "12, 14, 16 end" of Lanc can be found to be parallel to the wall, and no two "projections" can be found to be perpendicular to each other. Applicants assert that the "12, 18 end" is but a single "projection" (consistent with Lanc's own numbering). Because Item 18 is a first projection (and there is no second projection on that end), then Applicants' Claim 1 is novel.

Applicants also assert that the "12, 14, 16 end" is not a male engagement portion even if one could interpret that end as having both a first projection and an integral second projection. Item 12 at that end is a convoluted, twisted single projection resulting in a slot 14 (which remains open after construction -- see Fig. 4B) and female engagement portion for receiving Item 20.

For these several reasons, Claims 1, 4, 6, and 8 are novel over Lanc.

Update on Copending U.S. Patent Application Serial No. 10/531,621 for "Concrete Fillable Formwork"

In Applicants' Information Disclosure Statement of September 12, 2005, Applicants identified Application '621 as also filed by Applicants. Both this application

and that Application '621 claim priority from the same Provisional Patent Application 60/419,469.

Application '621 with claims directed to the elongated octagonal tubular form element with female engagement portions has been examined, and Applicants have responded on May 13, 2008 to Examiner J. Buckle, Jr. with amendments and remarks to overcome rejections using U.S. Pat. No. 5,216,863 (Nessa et al.) of record in this application.

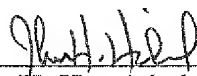
Applicants chose to pursue two separate patent applications, one for the insert panel of this application and the other for the tubular form elements, for reasons unrelated to patentability. Applicants reserve the possibility of filing a continuation application to claim the united structure of insert panel on adjoining tubular form elements.

The Office is encourage to arrange Examiners Safavi and Buckle, Jr. to review each other's examination activities, using PAIR and other mechanisms, and contact the undersigned with any questions either may have.

Conclusion

Applicants request a Notice of Allowance.

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